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C O N F I D E N T I A L SECTION 01 OF 04 ANKARA 005566

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DEPARTMENT FOR EUR/SE

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TAGS: [PGOV](#) [PREL](#) [PHUM](#) [TU](#)

SUBJECT: TURKEY'S EU CANDIDACY: FOCUS NOW ON IMPLEMENTATION

REF: A. ANKARA 4834

[B](#). ANKARA 728

[C](#). ANKARA 3974

[D](#). ANKARA 5217

[E](#). ANKARA 3738

Classified by DCM Robert Deutsch; reasons 1.5 b and d.

[1](#)1. (C) Summary: European diplomats in Ankara say the GOT's extensive human rights reforms have brought Turkey close to meeting EU accession criteria; the EU will now focus on how well the reforms are implemented. However, Turkey still falls short of the criteria in some areas, and pro-EU advocates in the GOT say further reforms are needed. End Summary.

[1](#)2. (U) Ankara-based diplomats from EU states credit the GOT with passing broad, groundbreaking human rights reforms over the past two years. Several of our contacts -- including British, German, Dutch, Italian, and Swedish diplomats -- believe that with the July passage of the seventh EU-related reform package (reftel A) the GOT has come close enough, on paper at least, to meeting the political criteria for EU accession that the EU has shifted its focus from Parliament to the bureaucracy, where reform legislation is implemented. "I'm amazed at what they've been able to pass in Parliament," said a German diplomat. "But now they have to implement it." At the December 2004 Summit, our contacts say, the EU's decision on whether to set a date to begin accession talks with Turkey will depend heavily on GOT performance in implementing the reforms it has adopted, though it will also be influenced by events in Cyprus and politics within the EU and its member states.

[1](#)3. (C) Officials in the MFA and the Secretariat General for EU Affairs, the GOT offices driving the EU-related reform process, have gotten the message on implementation. Asligul Ugdul, political affairs director at the Secretariat General, said she recognizes that in some cases impressive-seeming legislative reforms have been undermined by highly restrictive implementing legislation. She said she is working with MFA colleagues to develop a system for monitoring reform implementation. At the same time, she acknowledges that the GOT is not in full compliance with the EU political criteria and will have to make further legal changes.

Cyprus Settlement

[1](#)4. (C) Officially, a Cyprus settlement is not a prerequisite for a date to begin accession talks. The written criteria only call on the GOT to "strongly support efforts to find a comprehensive settlement of the Cyprus problem." But many Europeans have made it clear in private that they want a settlement, or at least a major breakthrough toward a settlement, before offering a date. Some GOT officials claim they could solve Cyprus quickly, but only after the EU sets a date; the EU wants to see a settlement first.

[1](#)5. (U) The following is an analysis of where the GOT now stands on each of the EU Political Criteria. As the EU performs its upcoming evaluations, conclusions will depend in part on the effectiveness of Turkish implementation and in part on the subjective evaluations of the EU Commission and member states. In the final analysis, although the accession criteria are designed to set an objective standard, EU accession decisions will remain political.

Economic Development of Southeast/IDPs

16. (U) The GOT has moved this criterion from the political section to the economic section of its National Program for EU membership. In part, this is a gambit to buy time -- the economic criteria are to be met during accession talks, while the political criteria are supposed to be fulfilled beforehand. There is some logic to it as well, because fulfilling this criterion involves long-term economic development. It is not clear, however, whether the EU will accept the idea of putting this issue on the slow track.

17. (C) This criterion also involves assisting the return of IDPs who fled the southeast, or were forced out, during the PKK conflict. The UN has recommended the GOT hold an international conference to develop a return program meeting international standards. MFA supports the idea, but the Interior Ministry opposes. We will report on this in more detail septel.

Torture

18. (U) The GOT has adopted a number of legal reforms relating to torture. For example, thanks to recent reforms: prosecutors no longer need the permission of a police officer's supervisor in order to investigate an officer for torture; torture sentences can no longer be suspended or postponed; torture trials cannot break for summer recess; and the statute of limitations for torture has been extended. The challenge now is to implement the reforms.

Attorney Access

19. (C) Under a reform measure adopted in January, all detainees now have the right to immediate attorney access. Previously, detainees in State Security Court (SSC) cases were denied attorney access for 48 hours. It is not clear how thoroughly this has been implemented; human rights activists accuse authorities of preventing some detainees from contacting attorneys, and then falsely claiming the detainees waived the right to consult with an attorney. This reform is closely linked to anti-torture efforts -- since most torture occurs in the first 24 hours of police detention, immediate attorney access would constitute a strong deterrent.

Discrimination/Cultural Diversity

10. (C) The main problem in this area is the Kurdish issue. The GOT has adopted reforms lifting, in principle, restrictions against Kurdish language courses and broadcasts. However, in both cases the bureaucracy has drafted highly restrictive implementing regulations that have made it impossible for interested parties to establish courses or broadcasts (reftels B-C). The GOT has also revised census legislation used to prevent parents from giving their children Kurdish names. However, Sezgin Tanrikulu, chairman of the Diyarbakir Bar Association, claimed in a press interview that authorities continue to enforce the previous restrictions.

Freedom of Expression

11. (C) A number of reforms have been adopted to soften the impact of various laws used to fight controversial speech. More importantly, State authorities over the years have become far less aggressive in pursuing and punishing speech crimes. Still, existing law provides plenty of leeway for going after those who "insult" the State or its institutions.

12. (C) This criterion requires Turkey to "remedy the situation" of the thousands of prisoners currently jailed for non-violent speech. The GOT has adopted legislation allowing a retrial in a Turkish court for convicts who win their appeals in the European Court of Human Rights (ECHR). The current, high profile trial of Leyla Zana and three other former Kurdish MPs is the first retrial under this measure. However, European and other outside observers have criticized

the proceedings as biased against the defendants (reftel D).

Freedom of Association/Assembly

¶13. (U) The GOT has passed various measures to loosen restrictions on who can form and join an association, what types of associations university students can form, and how much advance notice is needed before holding a demonstration. The reforms have also reduced somewhat the power of local officials to ban or postpone demonstrations, and made it easier for Turkish associations to add branches and join international associations. Turkey still falls short of EU standards in this area, but has probably made enough progress to eliminate this as a stumbling block.

Freedom of Religion

¶14. (U) From the EU perspective, the key issue here is the State's approach toward religions other than Islam. The GOT interprets the 1923 Lausanne Treaty as applying to three "minority" religious groups -- Greek Orthodox, Armenian Orthodox, and Jews. Parliament has adopted reforms designed to allow the foundations of these Lausanne minorities to own property. However, implementing regulations imposed onerous conditions on applicants, and a hostile Foundations Directorate has rejected many such applications. Non-Lausanne religious minorities lack legal status and have difficulty establishing houses of worship and practicing their faith.

NSC Reform

¶15. (C) The GOT has made a number of changes to the structure of the National Security Council. The number of civilian representatives has been increased, constituting a majority; the number of NSC meetings has been cut in half; regulations have been changed to allow a civilian to be appointed NSC Secretary General; and the legal duties of the NSC have been

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revised to emphasize the body's advisory nature. The EU criteria are vague on this score, requiring that the NSC be adapted "in order to align civilian control of the military with practice in EU member states."

Judicial Reform

¶16. (C) The biggest problem in this area is Turkey's State Security Court system, widely criticized for favoring State interests over individual rights. The ECHR has consistently overturned SSC convictions; in March, for example, the ECHR ruled that jailed PKK leader Abdullah Ocalan did not receive a fair trial, in part because the SSC where he was tried in 1999 did not constitute "an independent and impartial tribunal." However, there have been no significant changes to the SSCs, despite talk among reform advocates of revising or abolishing the courts.

Prison Conditions

¶17. (U) This does not appear to be a problem for EU candidacy. The European Committee for the Prevention of Torture, a Council of Europe body, regularly conducts unannounced prison inspections in Turkey, and has not raised fundamental concerns about conditions.

Police, Judicial Training

¶18. (C) The GOT has established human rights training for police and Jandarma, in cooperation with the EU and other outside donors. One of our Kurdish nationalist-Islamist contacts said the Police Academy human rights training is now

much more advanced than anything offered at the universities.
In addition, the Justice Ministry is training judges and prosecutors in how to implement the new reforms.

International Conventions, ECHR Compliance

¶19. (U) Turkey has ratified the required international documents: the International Covenant on Civil and Political Rights and its Optional Protocol; the International Covenant on Economic, Social and Cultural Rights; and Protocol 6 of the European Convention on Human rights.

¶20. (C) The EU has criticized Turkey for consistently failing to respect ECHR rulings. Recent reforms, mentioned above, allowing for a retrial in a Turkish court for those who win their appeals in the ECHR should improve the GOT's record; previously, successful appellants were entitled only to financial compensation. However, Turkish judges are often ignorant of, or hostile to, ECHR rulings. In one recent case, a writer was taken to court for the re-publication of a book, despite the fact that the ECHR ruled his previous conviction for the original publication improper (reftel E). The Justice Ministry is providing training to judges and prosecutors on the ECHR.

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